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Heron Preston S.r.l.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HERON PRESTON S.R.L.,

Plaintiff

v.

AIDA008, ALIBOER007, ALICE899, ALIEGATE,
AMOYTOP, ANDYS_TRIBE, ANET78889,
ANGELIA_LOVES, ARMY,
ASTROWORLDCLOTHING, ATOY, BANANA002,
BBCNEWSBOY, BDFASHIONCLOTHING,
BEST_BIKINI, BESTONLINESTORE, BIGNEWS,
BIGTOMSTORE, BLUEBERRY11, BLUEBERRY12,
BLUEDAILY, BLUEOFTHESEA, BOYSCLUB,
BRAND_CHARM, BRANDSELLERS,
BRANDSTORE0721, BTSFORMEN,
BUYERFRIEND, C121144507, CAIFUSHIJIA888,
CANADAGOOSESTORE9, CFWHK915,
CHANEL777, CHAODIE1,
CHARISMATIC_PERSONAL,
CHENGXINGSHANGPU8, CHENXING888,
CHERRY011, CHICWEAR, CINDA01, CINDA02,
CLOTHFIRST, CLOTHINGDH, CNSELLERS,
COMFORTABLE01, CORN001, COSMOS_FZ,
DAVI24, DAVIBRANDSTORE, DESIGNERGUCCI,
DESIGNERMENSCLOTHING, DH_JIXIANGRUYI,
DHFASHIONJ, DONGGUAN_WHOLESALE,
DUDU0405, ENERGY SHOP, FAFAFA168,

No. 19-cv-11331(AT)

**FINAL DEFAULT JUDGMENT
AND PERMANENT
INJUNCTION ORDER**

FAMOUSCLOTHING, FASHION_GARMENTS,
 FASHION_PALACE, FASHIONAPPERAL,
 FASHIONGUYS, FASHIONSHOP0618,
 FEAROFGODMEN, FEIZAI,
 FEMMECLOTHESWARDROBE, FENG20180205,
 FOGBANK2012, GAODASHANG, GASODA,
 GBRANDDESIGNER, GENTLECASUAL,
 GIV_SHOP, GOOD_CLOTHES, GOU02,
 GUANGZHOUJINDU86, GUYU11, HAIPISHOP,
 HANFEI001, HANFEI011, HAPPY_WEDDINGS,
 HAPPY SOCKS, HERONARMORHOMMES,
 HGG201733, HHWQ105, HIGHSTREET666,
 HIPHOPBOY, HONGHUI005, HUAWEIFITTING,
 HUMPHRAY, IICEEI, ILOVEAPPLE,
 INTERFLY666, JACKET_OUTLET, JACKLI119,
 JERKIN, JI_SHAO, JINSHANGHUA8888,
 JINYING2016, JUST4URWEAR, KAIXIN00666,
 KANJIANFEN788, KANYEWEST, KASELLER,
 KK_BOY, KMOONHOUSE, KYNE, LANDONG05,
 LAOCUNZHANG667788, LARCH, LICHEE009,
 LIDANDAN3689, LIFACAI1987, LILISHOP0911,
 LIUJIANSTORE, LORAL, LOVECLOTH,
 LOVEIT2017, LOVEJOJO0307, LUCKYSELLERS,
 LUCKYSELLERS1, LVZU666, LYY282,
 MAKECHAMPION, MALEKANYEFASHION,
 MANCLOTHES, MANGO003, MAYDAY1,
 MDX1990, MEIKAIERDU88, MENG MENG2019,
 MENSUPSTORE, MIFASHIONCOSTUME,
 MINGXINMAOYI888, MIRROR_HOME,
 MYCAT_ANDY, NASASPACE,
 NELSONBRANDSTORE, NICBUY, NIHAO5689025,
 NIUMOWANG2, NIUMOWANG7, NYSH,
 ONEREPUBLIC2, OTTIE, PALM_GOD, PANDO168,
 PHILIPPE, PRAGGA, PRETTYAMAZING, Q663,
 QINGYANG999, R9HY80, RAT_TOYS, ROSE005,
 SAMANTHE, SAMLLA,
 SECRETWOMENCLOTHES, SHUANG18,
 SIYU0888, SOISO, SONGQIAOLING114,
 SPRING10086, SPRING168, SQUARE1989,
 SUKICARE, SUMMER0926,
 SUNNY_COMFORTABLE, SUNNYTRADE,
 SUPER_EGG, SUPERCOOLGUY, SUWAI,
 SWALLOW2014520, SWEATCLOTH,
 SZGHHCOOL, THE_NORTHFACE, TIERAROSS,
 TIMBERLANDSTORE, TNF_JACKET, TOMAPEX,
 TOMORROW158, TORY KEAD, TREND STORE,

UGGFASHIONCLOTHES, VANSMENDESIGNER,
VINTAGECLOTHING, VOGO55, VOGOBOY,
VOGUEAPPAREL, WEIZHU, WENYA2016,
WONYO168, WUQI578, XMASFASHIONGIFTS,
XUEHANHAN, XXII, XXIII, XXXI, YAGE_SHOP,
YI1BEI8SHUI3, YINGYINGYANYAN,
YINGZAIZHIXING008, YINXIANG444,
YIWANG04, YIYEQIUUYU, YOOYO001,
YUHAO886, YUYUAN7910, ZGLOUIS,
ZHANGCM3581, ZHENGRUI05, ZISHU111 and
ZTY005,

Defendants

GLOSSARY

<u>Term</u>	<u>Definition</u>	<u>Docket Entry Number</u>
Plaintiff or Heron Preston	Heron Preston S.r.l.	N/A
Defendants	Aida008, Aliboer007, Alice899, Aliagate, Amoytop, Andys_tribe, Anet78889, Angelia_loves, Army, Astroworldclothing, Atoy, Banana002, Bbcnewsboy, Bdfashionclothing, Best_bikini, Bestonlinestore, Bignews, Bigtomstore, Blueberry11, Blueberry12, Bluedaily, Blueofthesea, Boysclub, Brand_charm, Brandsellers, Brandstore0721, Btsformen, Buyerfriend, C121144507, Caifushijia888, Canadagoosestore9, Cfwfhk915, Chanel777, Chaodiel, Charismatic_personal, Chengxingshangpu8, Chenxing888, Cherry011, Chicwear, Cinda01, Cinda02, Clothfirst, Clothingdh, Cnsellers, Comfortable01, Corn001, Cosmos_fz, Davi24, Davibrandstore, Designergucci, Designermensclothing, Dh_jixiangrui, Dhfashionj, Dongguan_wholesale, Dudu0405, Energy_shop, Fafafa168, Famousclothing, Fashion_garments, Fashion_palace, Fashionapperal, Fashionguys, Fashionshop0618, Fearofgodmen, Feizai, Femmeclotheswardrobe, Feng20180205, Fogbank2012, Gaodashang, Gasoda, Gbranddesigner, Gentlecasual, Giv_shop, Good_clothes, Gou02, Guangzhoujindu86, Guyu11, Haipishop, Hanfei001, Hanfei011, Happy_weddings, Happysocks, Heronarmorhommes, Hgg201733, Hhwq105, Highstreet666, Hiphopboy, Honghui005, Huaweifitting, Humphray, licei, Iloveapple, Interfly666, Jacket_outlet, Jackli119, Jerkin, Ji_shao, Jinshanghua8888, Jinying2016, Just4urwear, Kaixin00666, Kanjianfen788, Kanyewest, Kaseller, Kk_boy, Kmoonhouse, Kyne, Landong05, Laocunzhang667788, Larch, Lichee009, Lidandan3689, Lifacai1987, Lilishop0911, Liujianstore, Loral, Lovecloth, Loveit2017, Lovejojo0307, Luckysellers, Luckysellers1, Lvzu666, Lyy282, Makechampion, Malekanyefashion, Manclothes, Mango003, Mayday1, Mdx1990, Meikaierdu88, Mengmeng2019, Mensupstore, Mifashioncostume, Mingxinmaoyi888, Mirror home, Mycat andy,	N/A

	<p>Nasaspace, Nelsonbrandstore, Nicbuy, Nihao5689025, Niumowang2, Niumowang7, Nysh, Onerepublic2, Ottie, Palm_god, Pando168, Philipppe, Pragma, Prettyamazing, Q663, Qingyang999, R9hy80, Rat_toys, Rose005, Samanthe, Samlla, Secretwomenclothes, Shuang18, Siyu0888, Soiso, Songqiaoling114, Spring10086, Spring168, Square1989, Sukicare, Summer0926, Sunny_comfortable, Sunnytrade, Super_egg, Supercoolguy, Suwai, Swallow2014520, Sweatcloth, Szghhcool, The_northface, Tieraross, Timberlandstore, Tnf_jacket, Tomapex, Tomorrow158, Tory_kead, Trend_store, Uggfashionclothes, Vansmendedesigner, Vintageclothing, Vogo55, Vogoboy, Vogueapparel, Weizhu, Wenya2016, Wonyo168, Wuqi578, Xmasfashiongifts, Xuehanhan, Xxii, Xxiii, Xxxi, Yage_shop, Yilbei8shui3, Yingyingyanyan, Yingzaizhixing008, Yinxiang444, Yiwang04, Yiyeqiuyu, Yooyo001, Yuhao886, Yuyuan7910, Zglouis, Zhangcm3581, Zhengrui05, Zishu111 and Zty005</p>	
Defaulting Defendants	<p>Aida008, Aliboer007, Alice899, Aliegate, Amoytop, Andys_tribe, Anet78889, Army, Astroworldclothing, Atoy, Banana002, Bbcnewsboy, Best_bikini, Bestonlinestore, Bignews, Bluedaily, Blueofthesea, Boysclub, Brand_charm, Brandsellers, Brandstore0721, Btsformen, Buyerfriend, C121144507, Caifushijia888, Canadagoosestore9, Cfwhk915, Chanel777, Chaodie1, Charismatic_personal, Chengxingshangpu8, Chenxing888, Cherry011, Clothingdh, Cnsellers, Comfortable01, Corn001, Davi24, Davibrandstore, Designermensclothing, Dh_jixiangruiyi, Dhfashionj, Dongguan_wholesale, Dudu0405, Energy_shop, Fafafa168, Famousclothing, Fashion_garments, Fashion_palace, Fashionapperal, Fashionguys, Fashionshop0618, Fearofgodmen, Feng20180205, Fogbank2012, Gaodashang, Gasoda, Gbranddesigner, Giv_shop, Good_clothes, Gou02, Guangzhoujindu86, Haipishop, Hanfei001, Hanfei011, Happy_weddings, Happysocks, Heronarmorhommes, Hgg201733, Hhwq105, Highstreet666, Honghui005, Huaweifitting, Iloveapple, Interfly666, Jacket_outlet, Jackli119, Ji shao, Jinshanghua8888, Jinying2016,</p>	N/A

	Kaixin00666, Kanjianfen788, Kanyewest, Kaseller, Kk_boy, Kmoonhouse, Kyne, Landong05, Laocunzhang667788, Lichee009, Lidandan3689, Lifacai1987, Lilishop0911, Liujianstore, Lovecloth, Loveit2017, Lovejojo0307, Luckysellers, Luckysellers1, Lvzu666, Lyy282, Makechampion, Malekanyefashion, Manclothes, Mango003, Mayday1, Mdx1990, Meikaierdu88, Mengmeng2019, Mensupstore, Mifashioncostume, Mingxinmaoyi888, Mirror_home, Mycat_andy, Nelsonbrandstore, Nicbuy, Nihao5689025, Niumowang2, Niumowang7, Nysh, Onerepublic2, Ottie, Palm_god, Pando168, Pragga, Q663, Qingyang999, Rat_toys, Rose005, Samlla, Shuang18, Siyu0888, Soiso, Spring10086, Spring168, Square1989, Summer0926, Sunny_comfortable, Sunnytrade, Super_egg, Supercoolguy, Swallow2014520, Szghhcool, The_northface, Tieraross, Timberlandstore, Tnf_jacket, Tomapex, Tomorrow158, Tory_thead, Trend_store, Uggfashionclothes, Vansmendesigner, Vogo55, Wenya2016, Wuqi578, Xmasfashiongifts, Xxii, Yage_shop, Yi1bei8shui3, Yingyingyanyan, Yingzaizhixing008, Yinxiang444, Yiwang04, Yooyo001, Yuhao886, Yuyuan7910, Zglouis, Zhangcm3581, Zhengrui05, Zishu111 and Zty005	
DHgate	Dunhuang Group d/b/a DHgate.com, an online marketplace and e-commerce platform which allows manufacturers, wholesalers and other third-party merchants, like Defendants, to advertise, distribute, offer for sale, sell and ship their wholesale and retail products originating from China directly to consumers worldwide and specifically to consumers residing in the U.S., including New York.	N/A
Epstein Drangel	Epstein Drangel LLP, counsel for Plaintiff	N/A
NAL	New Alchemy Limited, a company that provides intellectual property infringement research services, to investigate and research manufacturers, wholesalers, retailers and/or other merchants offering for sale and/or selling counterfeit products on online marketplace platforms	N/A
New York Addresses	20 Cooper Square, New York, New York 10003; 244 Madison Ave Ste 411, New York, New York 10016; 944 Havemeyer Ave, Bronx, New York 10473	N/A
Complaint	Plaintiff's Complaint filed on December 11, 2019	Dkt. 8
Application	Plaintiff's <i>Ex Parte</i> Application for: 1) a temporary	Dkts. 13-17

	restraining order; 2) an order restraining Merchant Storefronts (as defined <i>infra</i>) and Defendants' Assets (as defined <i>infra</i>) with the Financial Institutions (as defined <i>infra</i>); 3) an order to show cause why a preliminary injunction should not issue; 4) an order authorizing bifurcated and alternative service and 5) an order authorizing expedited discovery filed on December 11, 2019	
Alini Dec.	Declaration of Marta Alini in Support of Plaintiff's Application	Dkt. 15
Arnaiz Dec.	Declaration of Jessica Arnaiz in Support of Plaintiff's Application	Dkt. 16
Yamali Dec.	Declaration of Danielle S. Yamali in Support of Plaintiff's Application	Dkt. 17
Heron Preston Products	A fashion line of workwear inspired luxury streetwear, including apparel, accessories, jewelry and shoes for men and women	N/A
Heron Preston Registrations	U.S. Trademark Registration Nos.: 5,699,830 for "HERON PRESTON" for a variety of goods in Class 14; 5,499,904 for "HERON PRESTON" for a variety of goods in Class 3; 5,499,896 for "HERON PRESTON" for a variety of goods in Class 9, 18, 25 and 35; 5,759,952 for "  " for goods in Class 3 and 14; 5,494,620 for "  " for goods in Class 9, 18, 25 and 35	N/A
Heron Preston Application	U.S. Trademark Serial Application No. 79/250,833 for "  " for a variety of goods in Class 3, 9, 18, 25 and 35	N/A
Heron Preston Marks	The marks covered by the Heron Preston Registrations and Heron Preston Application	N/A
Counterfeit Products	Products bearing or used in connection with the Heron Preston Marks, and/or products in packaging and/or containing labels bearing the Heron Preston Marks, and/or bearing or used in connection with marks that are confusingly similar to the Heron Preston Marks and/or products that are identical or confusingly similar to the Heron Preston Products	N/A
Infringing Listings	Defendants' listings for Counterfeit Products	N/A
User Accounts	Any and all websites and any and all accounts with online marketplace platforms such as DHgate, as well as any and all as yet undiscovered accounts with additional online marketplace platforms held by or associated with Defendants, their respective officers,	N/A

	employees, agents, servants and all persons in active concert or participation with any of them	
Merchant Storefronts	Any and all User Accounts through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them operate storefronts to manufacture, import, export, advertise, market, promote, distribute, display, offer for sale, sell and/or otherwise deal in Counterfeit Products, which are held by or associated with Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them	N/A
Defendants' Assets	Any and all money, securities or other property or assets of Defendants (whether said assets are located in the U.S. or abroad)	N/A
Defendants' Financial Accounts	Any and all financial accounts associated with or utilized by any Defendants or any Defendants' User Accounts or Merchant Storefront(s) (whether said account is located in the U.S. or abroad)	N/A
Third Party Service Providers	Any and all banks, financial institutions, credit card companies and payment processing agencies, such as DHgate (<i>e.g.</i> , DHpay.com), PayPal Inc. ("PayPal"), Payoneer Inc. ("Payoneer") and PingPong Global Solutions, Inc. ("PingPong") and other companies or agencies that engage in the processing or transfer of money and/or real or personal property of Defendants	N/A
Financial Institutions	Online platforms, including, without limitation, those owned and operated, directly or indirectly by DHgate, as well as any and all as yet undiscovered online marketplace platforms and/or entities through which Defendants, their respective officers, employees, agents, servants and all persons in active concert or participation with any of them manufacture, import, export, advertise, market, promote, distribute, offer for sale, sell and/or otherwise deal in Counterfeit Products which are hereinafter identified as a result of any order entered in this action, or otherwise	N/A
Defendants' Frozen Assets	Defendants' Assets from Defendants' Financial Accounts that were and/or are attached and frozen or restrained pursuant to the TRO and/or PI Order, or which are attached and frozen or restrained pursuant to any future order entered by the Court in this Action	N/A
Plaintiff's Motion for Default Judgment	Plaintiff's Application for an Order to Show Cause Why Default Judgment and a Permanent Injunction should not be entered Against Defaulting Defendants	Dkts. 38-41

	filed on November 25, 2020	
Scully Aff.	Affidavit of Brienne Scully in Support of Plaintiff's Motion for Default Judgment	Dkt. 40
Alini DJ Dec.	Declaration of Marta Alini in Support of Plaintiff's Motion for Default Judgment	Dkt. 43

This matter comes before the Court by motion filed by Plaintiff for the entry of final judgment and permanent injunction by default against Defaulting Defendants for Defaulting Defendants' trademark infringement, trademark counterfeiting, false designation of origin, passing off and unfair competition and related state and common law claims arising out of Defaulting Defendants' unauthorized use of Plaintiff's Heron Preston Marks, without limitation, in their manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying or offering for sale and/or selling and/or sale of Counterfeit Products.¹

The Court, having considered the Memorandum of Law, Declaration of Marta Alini and Affidavit of Brienne Scully in support of Plaintiff's Motion for Default Judgment and a Permanent Injunction Against Defaulting Defendant, the Certificates of Service of the Summons and Complaint, the Certificate of the Clerk of the Court stating that no answer has been filed in the instant action, and upon all other pleadings and papers on file in this action, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

I. Defaulting Defendants' Liability

- 1) Judgment is granted in favor of Plaintiff on all claims properly pled against Defaulting Defendants in the Complaint;

II. Damages Awards

- 1) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that because it would serve both the compensatory and punitive purposes of the Lanham Act's prohibitions on willful infringement, and because Plaintiff has sufficiently set forth the basis for the statutory damages award requested in its Motion for Default Judgment, the Court finds such an award to be reasonable and Plaintiff is awarded \$75,000.000 in statutory damages ("Individual Damages

¹ Where a defined term is referenced herein and not defined herein, the defined term should be understood as it is defined in the Glossary.

Award”) against each and every Defaulting Defendant (a total of One Hundred Seventy-One (171) Defaulting Defendants) pursuant to 15 U.S.C. § 1117(c) of the Lanham Act for a total of Twelve Million Eight Hundred Twenty Five Thousand Dollars (\$12,825,000.00), plus post-judgment interest.

III. Permanent Injunction

1) IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Defaulting Defendants, their respective officers, agents, servants, employees, attorneys and all persons acting in active concert with or under the direction of Defaulting Defendants (regardless of whether located in the United States or abroad), who receive actual notice of this Order are permanently enjoined and restrained from:

- A. manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in Counterfeit Products or any other products bearing one or more of the Heron Preston Marks and/or marks that are confusingly similar to, identical to and constitute a counterfeiting and/or infringement of the Heron Preston Marks;
- B. directly or indirectly infringing in any manner any of Plaintiff’s Heron Preston Marks;
- C. using any reproduction, counterfeit, copy or colorable imitation of Plaintiff’s Heron Preston Marks to identify any goods or services not authorized by Plaintiff;
- D. using any of Plaintiff’s Heron Preston Marks, or any other marks that are confusingly similar to the Heron Preston Marks on or in connection with the manufacturing, importing, exporting, advertising, marketing, promoting, distributing, displaying, offering for sale, selling and/or otherwise dealing in the Counterfeit Products;
- E. using any false designation of origin or false description, or engaging in any action which is likely to cause confusion, cause mistake and/or to deceive members of the

- trade and/or the public as to the affiliation, connection or association of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defaulting Defendants with Plaintiff, and/or as to the origin, sponsorship or approval of any product manufactured, imported, exported, advertised, marketed, promoted, distributed, displayed, offered for sale or sold by Defaulting Defendants and Defaulting Defendants' commercial activities by Plaintiff;
- F. secreting, concealing, destroying, altering, selling off, transferring or otherwise disposing of and/or dealing with: (i) Counterfeit Products; (ii) any computer files, data, business records, documents or any other records or evidence relating to:
- i. the manufacture, importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products by Defaulting Defendants and by their respective officers, employees, agents, servants and all persons in active concert or participation with any of them.
- G. effecting assignments or transfers, forming new entities or associations, or creating and/or utilizing any other platform, User Accounts, Merchant Storefronts or any other means of importation, exportation, advertising, marketing, promotion, distribution, display, offering for sale and/or sale of Counterfeit Products for the purposes of circumventing or otherwise avoiding the prohibitions set forth in this Order.
- 2) IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defaulting Defendants must deliver up for destruction to Plaintiff any and all Counterfeit Products and any and all packaging, labels, tags, advertising and promotional materials and any other materials in the possession, custody or control of Defaulting Defendants that infringe any of Plaintiff's

trademarks, copyrights or other rights including, without limitation, the Heron Preston Marks, or bear any marks that are confusingly similar to the Heron Preston Marks pursuant to 15 U.S.C. § 1118.

IV. Order Authorizing Continued Alternative Service by Electronic Means

- 1) IT IS FURTHER ORDERED, as sufficient cause has been shown, that such alternative service by electronic means that was ordered in the TRO and PI Order, shall be deemed effective as to Defendants, Financial Institutions and Third Party Service Providers through the pendency of this action.

V. Dissolution of Rule 62(a) Stay

- 1) IT IS FURTHER ORDERED, as sufficient cause has been shown, the 30 day automatic stay on enforcing Plaintiffs' judgment, pursuant to Fed. R. Civ. Pro. 62(a) is hereby dissolved.

VI. Miscellaneous Relief

- 1) Defaulting Defendants may, upon proper showing and two (2) business days written notice to the Court and Plaintiff's counsel, appear and move for dissolution or modification of the provisions of this Order concerning the restriction or restraint of Defaulting Defendants' Frozen Assets, Defaulting Defendants' Additional Assets and/or Defaulting Defendants' Additional Financial Accounts;
- 2) Any failure by Defaulting Defendants to comply with the terms of this Order shall be deemed contempt of Court, subjecting Defaulting Defendants to contempt remedies to be determined by the Court, including fines and seizure of property.

SO ORDERED.

Dated: January 9, 2023
New York, New York



ANALISA TORRES
United States District Judge